

~~SECRET~~*C/legislation*  
*SIR File Confidential.*OLL 85-3655  
21 November 1985

MEMORANDUM FOR: Executive Director

FROM: Director, Office of Legislative Liaison

SUBJECT: The Current CI Scene

[redacted]

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1. It is patently obvious that a number of recent events, unrelated in themselves, have revived and stimulated efforts to do something different in the management of the nation's counterintelligence effort. I am sure that when the SSCI concludes its on-going series of five hearings on counterintelligence, it will draw up some kind of document, whether proposed legislation, directive or guidance. We may be in a position to deal effectively with whatever results, or to take additional informed initiatives, given the events that have occurred since the Bross report was written - but I'm not sure that we are.

2. The Wallop/Codevilla accusations have been continuous and are currently at a high pitch. The [redacted] cases have been seized upon by the critics and have revived the debate about moles. Some of our Oversight Committee Members have stated that these events have had a significant negative impact on our credibility as a professional intelligence community. Add to this the credibility skepticism expressed publicly by Senators Helms, Symms et at with regard to our assessments of Soviet military strength and public expression of doubts about Agency management of [redacted]

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counterterrorist events and you have much grist for the conspiracy theorists and those after senior management scalps.

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3. We should not forget that Senator Durenberger fought off legislation by Senators Byrd and Stevens that would have created a National Commission on Security and Espionage. In large measure, the current SSCI hearings are a direct consequence of that battle to retain intelligence oversight in the SSCI. Again, these factors make it all the more likely that some sort of SSCI product will result.

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4. We all did some bobbing and weaving on the identification of "the Administration spokesman" for the CI hearings, on the scenario and witnesses for the individual hearings, on the IC Staff versus CIA, or NIO, organizing role. My impression is that the SSCI has felt the ambiguity and confusion, as have we. There certainly is much current SSCI focus on counterintelligence management, both in planning and accountability. My strong impression at the beginning of the hearings was that the SSCI wanted the DCI to be Lucky Pierre; I'm not so sure now.

5. Maybe some contingency planning is in order.

[Redacted Signature]

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Charles A. Briggs

N.B. Picking up on Harry's comments at the 8:00 a.m. meeting re the 4 December SSCI hearing on technical security:

Informed speculation has it that the NSA statement for the record may not, in itself, be too provocative but that questions for the Members have been planted with the SSCI staff, in coordination with DeGraffenreid.

cc: DDCI

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20 NOV 1985

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yes  
Thank  
5/16

99TH CONGRESS  
1ST SESSION

# H. R. 3626

To establish the National Commission on Classified Information and Security  
Clearance Procedures.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 1985

Mr. WORTLEY (for himself, Mr. BOEHLERT, Mr. EMERSON, Mr. FISH, Mr. GALLO, Mr. GARCIA, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEWIS of California, Mr. McCANDLESS, Mr. MOLINARI, Mr. NIELSON of Utah, Mr. RUDD, and Mr. DENNY SMITH) introduced the following bill; which was referred jointly to the Committees on Government Operations and the Permanent Select Committee on Intelligence

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## A BILL

To establish the National Commission on Classified Information  
and Security Clearance Procedures.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "National Commission on  
5 Classified Information and Security Clearance Procedures".

6 **SEC. 2. ESTABLISHMENT.**

7 (a) **ESTABLISHMENT.**—There is established a commis-  
8 sion to be known as the National Commission on Classified

1 Information and Security Clearance Procedures (hereinafter  
2 in this Act referred to as the "Commission").

3 (b) FEDERAL ADVISORY COMMITTEE ACT.—The pro-  
4 visions of the Federal Advisory Committee Act shall not  
5 apply to the Commission.

6 SEC. 3. DUTIES OF COMMISSION.

7 (a) INVESTIGATION.—The Commission shall investi-  
8 gate—

9 (1) the standards and procedures used by each  
10 Federal authority to issue security clearances and to  
11 classify information;

12 (2) the procedures used by each Federal authority  
13 to ensure that all persons to whom a security clearance  
14 has been issued continue to meet the standards  
15 required for such clearance;

16 (3) the extent to which current standards and pro-  
17 cedures for classifying information cause more informa-  
18 tion to be classified than is required by the national  
19 security; and

20 (4) the dangers posed to the national security by  
21 the growth in the number of persons holding security  
22 clearances.

23 (b) RECOMMENDATIONS.—The Commission shall make  
24 the following recommendations:

1           (1) It shall recommend to each branch of the Fed-  
2       eral Government uniform standards and procedures for  
3       issuing all security clearances. Such standards and pro-  
4       cedures shall be designed to ensure that neither the  
5       number of security clearance holders nor the qualifica-  
6       tions for holding a security clearance will threaten the  
7       national security.

8           (2) It shall recommend to each branch of the Fed-  
9       eral Government a uniform procedure for ensuring that  
10      any person holding a security clearance continues to  
11      meet the standards required for such clearance.

12          (3) It shall recommend to each branch of the Fed-  
13      eral Government uniform standards and procedures for  
14      classifying documents. Such standards and procedures  
15      shall be designed to prevent classifying documents  
16      whose classification is not necessary to the national  
17      security and to prevent the needless duplication of doc-  
18      uments which do warrant a security classification.

19   **SEC. 4. MEMBERSHIP.**

20          (a) **NUMBER AND APPOINTMENT.**—The Commission  
21      shall be composed of 17 members as follows:

22              (1) The Chief Justice of the Supreme Court of the  
23      United States.

24              (2) 4 Members of the House of Representatives, 2  
25      to be appointed by the Speaker of the House of Repre-

1        representatives and 2 to be appointed by the minority leader  
2        of the House of Representative.

3            (3) 4 Members of the Senate, 2 to be appointed by  
4        the majority leader of the Senate and 2 to be appointed  
5        by the minority leader of the Senate.

6            (4) 8 individuals appointed by the President from  
7        persons whose education, training, or experience spe-  
8        cially qualify them to serve on the Commission. Not  
9        more than 4 members appointed under this paragraph  
10       may be of the same political party.

11    A vacancy in the Commission shall be filled in the manner in  
12    which the original appointment was made.

13        (b) SECURITY CLEARANCES.—No one may be appoint-  
14    ed to the Commission who does not hold the security clear-  
15    ance necessary to carry out the duties of the Commission as  
16    set out in section 3.

17        (c) CONTINUATION OF MEMBERSHIP.—If any member  
18    of the Commission who was appointed to the Commission as  
19    the Chief Justice of the Supreme Court of the United States  
20    or as a Member of the Congress leaves such office, he may  
21    continue as a member of the Commission for not longer than  
22    the 30-day period beginning on the date he leaves such office.

23        (d) TERMS.—Members shall be appointed for the life of  
24    the Commission.

1       (e) **BASIC PAY.**—Members of the Commission shall  
2 serve without pay.

3       (f) **QUORUM.**—9 members of the Commission shall con-  
4 stitute a quorum.

5       (h) **CHAIRMAN.**—The Chairman of the Commission  
6 shall be the Chief Justice of the Supreme Court of the United  
7 States. The Vice Chairman of the Commission shall be elect-  
8 ed by the members of the Commission. The term of office of  
9 the Chairman and Vice Chairman shall be for the life of the  
10 Commission.

11       (i) **MEETINGS.**—The Commission shall meet at the call  
12 of the Chairman or Vice Chairman.

13 **SEC. 5. DIRECTOR AND STAFF OF COMMISSION.**

14       (a) **DIRECTOR.**—The Commission shall have a Director  
15 who shall be appointed by the Commission.

16       (b) **STAFF.**—The Commission may appoint such addi-  
17 tional personnel as it considers appropriate.

18       (c) **APPLICABILITY OF CERTAIN CIVIL SERVICE**  
19 **LAWS.**—The Director and staff of the Commission may be  
20 appointed without regard to the provisions of title 5, United  
21 States Code, governing appointments in the competitive serv-  
22 ice, and may be paid without regard to the provisions of  
23 chapter 51 and subchapter III of chapter 53 of such title  
24 relating to classification and General Schedule pay rates,  
25 except that no individual so appointed may receive pay in

1 excess of the annual rate of basic pay payable for GS-18 of  
2 the General Schedule.

3 (d) EXPERTS AND CONSULTANTS.—The Commission  
4 may procure temporary and intermittent services under sec-  
5 tion 3109(b) of title 5 of the United States Code, but at rates  
6 for individuals not to exceed the daily equivalent of the  
7 annual rate of pay payable for GS-18 of the General Sched-  
8 ule.

9 (e) STAFF OF FEDERAL AGENCIES.—Upon request of  
10 the Commission, the head of any Federal agency is author-  
11 ized to detail, on a reimbursable basis, any of the personnel of  
12 such agency to the Commission to assist the Commission in  
13 carrying out its duties under this Act.

14 (f) SECURITY CLEARANCES.—No one shall serve as the  
15 Director, or on the staff, of the Commission who does not  
16 hold the security clearance necessary to perform the duties of  
17 his position.

18 **SEC. 6. POWERS OF COMMISSION.**

19 (a) HEARINGS AND SESSIONS.—The Commission may,  
20 for the purpose of carrying out section 3 of this Act, hold  
21 such hearings, sit and act at such times and places, take such  
22 testimony, and receive such evidence, as the Commission  
23 considers appropriate. The Commission may administer oaths  
24 or affirmations to witnesses appearing before it.



1       (b) PUBLIC ACCESS TO COMMISSION MEETINGS AND  
2 HEARINGS.—Notwithstanding section 552b of title 5, United  
3 States Code, a Commission meeting or hearing may be closed  
4 to the public when the Commission, in open session and with  
5 a majority present, determines by rollcall vote that all or part  
6 of the remainder of the meeting or hearing on that day shall  
7 be closed to the public because disclosure of testimony, evi-  
8 dence, or other matters to be considered would endanger the  
9 national security.

10       (c) POWERS OF MEMBERS AND AGENTS.—Any  
11 member or agent of the Commission may, if so authorized by  
12 the Commission, take any action which the Commission is  
13 authorized to take by this section.

14       (d) OBTAINING OFFICIAL DATA.—The Commission  
15 may secure directly from any department or agency of the  
16 United States information necessary to enable it to carry out  
17 this Act. Upon request of the Chairman or Vice Chairman of  
18 the Commission, the head of such department or agency shall  
19 furnish such information to the Commission.

20       (e) GIFTS.—The Commission may accept, use, and dis-  
21 pose of gifts or donations of services or property.

22       (f) MAILS.—The Commission may use the United States  
23 mails in the same manner and under the same conditions as  
24 other departments and agencies of the United States.

1       (g) ADMINISTRATIVE SUPPORT SERVICES.—The Ad-  
2   ministrator of General Services shall provide to the Commis-  
3   sion on a reimbursable basis such administrative support  
4   services as the Commission may request.

5       (h) SUBPOENA POWER.—

6           (1) The Commission may issue subpoenas requir-  
7   ing the attendance and testimony of witnesses and the  
8   production of any evidence that relates to any matter  
9   which the Commission is empowered to investigate by  
10   section 3. Such attendance of witnesses and the pro-  
11   duction of such evidence may be required from any  
12   place within the United States.

13          (2) If a person issued a subpoena under paragraph  
14   (1) refuses to obey such subpoena or is guilty of contu-  
15   macy, any court of the United States within the judi-  
16   cial district within which the hearing is conducted or  
17   within the judicial district within which such person is  
18   found or resides or transacts business may (upon appli-  
19   cation by the Commission) order such person to appear  
20   before the Commission to produce evidence or to give  
21   testimony relating to the matter under investigation.  
22   Any failure to obey such order of the court may be  
23   punished by such court as a contempt thereof.

24          (3) The subpoenas of the Commission shall be  
25   served in the manner provided for subpoenas issued by

1       a United States district court under the Federal Rules  
2       of Civil Procedure for the United States district courts.

3           (4) All process of any court to which application  
4       may be made under this section may be served in the  
5       judicial district in which the person required to be  
6       served resides or may be found.

7       (i) IMMUNITY.—No person shall be excused from at-  
8       tending and testifying or from producing books, records, cor-  
9       respondence, documents, or other evidence in obedience to a  
10      subpoena, on the ground that the testimony or evidence re-  
11      quired of him may tend to incriminate him or subject him to a  
12      penalty or forfeiture; but no individual shall be prosecuted or  
13      subjected to any penalty or forfeiture by reason of any trans-  
14      action, matter, or thing concerning which he is compelled,  
15      after having claimed his privilege against self-incrimination,  
16      to testify or produce evidence, except that such individual so  
17      testifying shall not be exempt from prosecution and punish-  
18      ment for perjury committed in so testifying.

19   **SEC. 7. REPORT.**

20       The Commission shall transmit a final report to the  
21      President, to each House of the Congress, and to the Su-  
22      preme Court of the United States not later than one year  
23      after appropriations are first made for the Commission. The  
24      final report shall contain a detailed statement of the findings

1 and conclusions of the Commission, together with whatever  
2 recommendations it makes pursuant to section 3.

3 **SEC. 8. PUBLIC ACCESS TO COMMISSION DOCUMENTS.**

4       Notwithstanding section 552(a) of title 5, United States  
5 Code, the records, reports, transcripts, minutes, appendixes,  
6 working papers, drafts, studies, agenda, or other documents  
7 which were made available to or prepared for or by the Com-  
8 mission may be withheld from public inspection when the  
9 Commission, in open session and with a majority present,  
10 determines by rollcall vote that disclosure of such documents  
11 would endanger the national security.

12 **SEC. 9. TERMINATION.**

13       The Commission shall cease to exist 30 days after sub-  
14 mitting its final report pursuant to section 7.

